

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

LEONOR LARA BORROTO,

Plaintiff,

v.

Case No.: 2:19-cv-356-FtM-38NPM

WAL-MART STORES EAST, LP.,

Defendant.

ORDER¹

Before the Court is the parties' Joint Notice of Mediation Outcome ([Doc. 36](#)). The parties attended mediation in January 2020, resulting in a continuance to a later date before the May 8, 2020, mediation deadline. ([Doc. 28](#)). That deadline came and went with nothing from the parties. So the Court ordered an update on mediation. ([Doc. 35](#)).

Now, the parties inform the Court they continued settlement discussions and "declared an impasse in the mediation." ([Doc. 36 at 1](#)). The Court will assume the parties' failure to hint at any subsequent mediation before the mediator means it never happened. In other words, the parties skipped their deadline to complete mandatory, Court-ordered mediation. ([Doc. 21 at 12](#)); [Local Rule 9.01\(b\)](#); [Bernath v. Seavey, No. 2:15-cv-358-FtM-99CM, 2017 WL 564941, at *2 \(M.D. Fla. Feb. 13, 2017\)](#). That is sanctionable conduct under both [Local Rule 9.05\(c\)](#) and the Case Management Scheduling Order ("CMSO") ([Doc. 21 at 14](#)). While the parties purport to have "declared an impasse in the mediation,"

¹ Disclaimer: Documents hyperlinked to CM/ECF are subject to PACER fees. By using hyperlinks, the Court does not endorse, recommend, approve, or guarantee any third parties or the services or products they provide, nor does it have any agreements with them. The Court is also not responsible for a hyperlink's availability and functionality, and a failed hyperlink does not affect this Order.

they have no power to do so. As the CMSO says, “Only the mediator may declare an impasse or end the mediation.” ([Doc. 21 at 13](#)). If the parties completed mediation with the *mediator* declaring an impasse, they failed to file the mediator’s report as required by [Local Rule 9.06](#) and the CMSO ([Doc. 21 at 13](#)).

At this point, the Court does not find sanctions are warranted. But the parties must complete their mediation before May 29, 2020. The parties may meet this deadline by mediating via video conference. If any other accommodation is necessary to meet the deadline, the Court expects the parties to file a motion.

Accordingly, it is now

ORDERED:

The parties are **ORDERED** to complete mediation **on or before May 29, 2020**.

DONE and **ORDERED** in Fort Myers, Florida this 19th day of May, 2020.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record